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C O N F I D E N T I A L SECTION 01 OF 02 PRAGUE 000523

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SUBJECT: SURPRISE CZECH COURT RULING CASTS DOUBT ON EARLY  
ELECTION DATE

Classified By: Charge d'Affaires Mary Thompson-Jones for reasons 1.4 (b)  
) and (d).

¶1. (C) Summary: In a surprise ruling, the Czech Republic's Constitutional Court announced September 1 it will consider a challenge to a law passed in May and signed by President Klaus in June shortening the current term of the Chamber of Deputies, Parliament's lower house. The court ruling indefinitely postpones early parliamentary elections scheduled for October 9-10. The court said a new date for the elections - whether October 9-10; June 2010, when elections would otherwise have been held; or some date in between - can only be determined after the court reaches its final decision. This afternoon, the court said it would meet on September 10, although it did not guarantee it would reach a final decision at that time. Political leaders were taken by surprise by the decision and oppose postponing the elections. The president, prime minister, party leaders, and leaders of Parliament met today in President Klaus's office to consider possible solutions, resulting in a proposal to amend the constitution. The National Electoral Commission will also meet tonight to make recommendations to resolve the issue. The situation is very fluid and may not be clear for several days. End Summary.

¶2. (U) The Constitutional Court announced late on September 1 that it will consider the challenge to a law signed by President Klaus to hold early parliamentary elections on October 9-10, and that an election date cannot be set until it has reached a final decision. This ruling indefinitely postpones the early parliamentary elections, scheduled for October 9-10. The court acted in response to a constitutional complaint filed by MP Milos Melcak on August 26, who is challenging the decision to shorten the election term of Parliament and hold early elections. Melcak was elected as a member of the Social Democrats (CSSD), but was later expelled from the party.

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Timing  
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¶3. (U) The parliamentary elections were originally scheduled for June 2010. A regular term for MPs is four years, and the last elections were held in June 2006. On March 24, 2009, however, the government coalition led by Mirek Topolanek and the Civic Democrats (ODS) fell in a no-confidence vote. The Topolanek government was replaced by an interim government led by Jan Fischer, former head of the Czech Statistical Office. Parliament approved holding early elections by a three-fifths majority in each house, and President Klaus announced on July 1 that he had signed a law setting the dates as October 9-10, 2009.

¶4. (U) In its announcement, the court provided no timeline for its review of the Melcak complaint. This afternoon, however, the court said it would try to act quickly and would meet on September 10. The court did not guarantee a final decision on the 10th. Czech law does not place any time limit on when the court must rule. Deputy Chief Justice

Eliska Wagnerova of the Constitutional Court had said on September 1 that it would be impossible for the court to make its decision before October 9-10, and Court Chief Pavel Rychetsky said the court's decision to review the law was necessary because the constitutional issue is "serious." On the other hand, the court spokesman did not rule out the possibility that the court would dismiss the complaint.

15. (C) Political parties across the spectrum, with the exception of the Christian Democrats, are upset by the decision and are seeking a way to circumvent the ruling. Both main political party leaders, ODS's Topolanek and CSSD's Paroubek, strongly criticized the ruling. President Klaus called the court's ruling "activist and unprecedented." Some leaders, including Paroubek and Vojtech Filip of the Communist Party (KSCM), believe a legal solution can be found that will allow the elections to proceed as scheduled. President Klaus, Prime Minister Fischer, and party and Parliamentary leaders agreed to a meeting today in President Klaus's office to discuss options. Following the meeting, leaders announced they will create a group of experts who will draft a proposed change to the constitution. The National Electoral Commission, a multi-party body of 20 people responsible for overseeing elections, will also meet tonight to make recommendations to resolve the issue. One member of the Commission, Jan Klusacek, director of the Health Ministry legislative affairs department, told poloff that tonight's Commission meeting will last until the members develop a viable proposal that can be presented to the two main political party heads. This proposal will lay out how the government will proceed in planning for the elections, given the pending judicial issue and the uncertainty of when

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it will be resolved.

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The Court  
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16. (C) The Constitutional Court has 15 members who are appointed for ten-year terms. The court voted 11-2 in favor of taking up the challenge to the law setting the early elections. Two were absent, and the two dissenters will publish their reasoning soon. Several of the justices are former Members of Parliament, and will come under political pressure to make a decision quickly. The court recently took six months, however, to rule on the Lisbon Treaty, suggesting that the justices may not be swayed by pressure.

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Potential Scenarios  
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17. (C) The law setting the dates of the early elections was passed by a constitutional majority of each house of Parliament and signed into law by Klaus. Although the law was passed by a constitutional majority, it is a one-time law, not a constitutional amendment. The Czech Republic held early elections in 1998, using the same procedures as in the current case. No challenges were filed and the elections proceeded on schedule. The recommendation from today's meeting at Prague Castle is to amend the constitution so that this procedure is specifically authorized. Under the constitution, the President can also dissolve the Chamber of Deputies if the current government falls in a no-confidence vote, followed by three failed attempts to form a new government. In addition, the Constitution specifies other situations in which early elections can be called, such as if parliament does not meet for 120 days. Even though it has postponed the early election law, another possibility is that the Court dismisses Melcak's complaint.

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Situation May Not Be Clear for Several Days  
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18. (C) Comment: The decision by the Constitutional Court took Czech political leaders by surprise, and the resulting confusion and uncertainty places great pressure on the Czech political system. Political parties are in the middle of their campaigns and have already expended significant funds. Czech media are full of speculation about possible outcomes, election scenarios, and the possible fallout. The Prague Castle meeting, which resulted in a plan to amend the constitution, and the Electoral Commission meeting may clarify some options, but no clear resolution will likely be reached for several days. End Comment.  
Thompson-Jones